

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JERRY LEE KATT, JR.,

Petitioner,

v.

SHERRY L. BURT,

Respondent.

Case No. 1:19-cv-1002

HON. JANET T. NEFF

OPINION AND ORDER

This is a habeas corpus petition filed pursuant to 28 U.S.C. § 2254. Respondent filed a motion to dismiss, arguing that the matter was time-barred. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R). The Magistrate Judge determined that the petition was timely filed and recommends that this Court deny Respondent's motion to dismiss. The Magistrate Judge thoroughly considered the grounds presented in the petition and recommends that this Court deny the petition on its merits. The matter is presently before the Court on Petitioner's objections to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order. The Court will also issue a Judgment in this § 2254 proceeding. *See Gillis v. United States*, 729 F.3d 641, 643 (6th Cir. 2013) (requiring a separate judgment in habeas proceedings).

This Court's local rule requires an objecting party to "specifically identify the portions of the proposed findings, recommendations or report to which objections are made and the basis for

such objections.” W.D. Mich. LCivR 72.3(b). This Court reviews de novo “those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* See also 28 U.S.C. § 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.”). According to Petitioner, “[t]he Magistrate is wrong” (Pet’r Objs., ECF No. 9 at PageID.1366). However, Petitioner’s conclusory assertions serve merely to demonstrate his disagreement with—and not any factual or legal error in—the Magistrate Judge’s analysis and ultimate conclusion that his petition lacks merit. Petitioner’s objections are therefore properly denied.

Having determined that Petitioner’s objections are properly denied, the Court must further determine pursuant to 28 U.S.C. § 2253(c) whether to grant a certificate of appealability as to the issues raised. See RULES GOVERNING § 2254 CASES, Rule 11 (requiring the district court to “issue or deny a certificate of appealability when it enters a final order”). The Court must review the issues individually. *Slack v. McDaniel*, 529 U.S. 473 (2000); *Murphy v. Ohio*, 263 F.3d 466, 466-67 (6th Cir. 2001). “Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: The petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack*, 529 U.S. at 484. Upon review, this Court finds that reasonable jurists would not find the Court’s assessment of Petitioner’s claims debatable or wrong. Consistent with the Magistrate Judge’s recommendation, a certificate of appealability will therefore be denied.

Accordingly:

IT IS HEREBY ORDERED that the Objections (ECF No. 9) are DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 8) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the Motion to Dismiss (ECF No. 5) is DENIED for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED that the petition for habeas corpus relief (ECF No. 1) is DENIED for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED that a certificate of appealability pursuant to 28 U.S.C. § 2253(c) is DENIED as to each issue asserted.

Dated: March 23, 2021

/s/ Janet T. Neff

JANET T. NEFF
United States District Judge